



# County of Los Angeles CHIEF EXECUTIVE OFFICE

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March 30, 2011

To: Mayor Michael D. Antonovich  
Supervisor Gloria Molina  
Supervisor Mark Ridley-Thomas  
Supervisor Zev Yaroslavsky  
Supervisor Don Knabe

From: William T Fujioka  
Chief Executive Officer

## SACRAMENTO UPDATE

This memorandum contains pursuits of County positions on legislation regarding:

- 1) expansion of the presumption of work-related injuries for hospital employees;
- 2) expansion in the factors for the determination of workers' compensation benefits;
- 3) mandated reporting of financial abuse of elderly and dependent adults; and 4) liens on workers' compensation claims for medical services.

This update also provides the status of County-sponsored legislation regarding job qualifications for applicants to the position of public defender.

### Pursuit of County Position on Legislation

**AB 375 (Skinner)**, which as introduced on February 14, 2011, would expand the presumption of job-related injuries to cover all hospital employees for blood-borne infectious diseases, Methicillin-resistant *Staphylococcus aureus* (MRSA), and all neck and back injuries. This presumption would exist if the impairment develops or manifests itself during the period of employment with the hospital.

Under current law, certain medical conditions are disputably presumed to be job-related for certain public safety employees. AB 375 would significantly expand the specified presumptions beyond public safety employees by applying them to all employees who provide direct patient care in public, private, and non-profit hospitals.

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The Chief Executive Office (CEO) Risk Management Branch indicates that AB 375 would eliminate the County's ability to dispute job-relatedness for blood-borne infectious diseases, MRSA, and all neck and back injuries for all hospital employees involved in direct patient care. The expansion of the presumption of work-related disability would increase the number and cost of workers' compensation payments made to County employees. The CEO Risk Management Branch estimates that these costs are likely to exceed \$1.0 million annually for the Department of Health Services.

The Chief Executive Office opposes AB 375. Therefore, consistent with Board policy to oppose legislation that expands existing or creates new presumptions related to injuries, illnesses, diseases, or physical conditions that can be claimed as job-related for workers' compensation or service-connected disability retirement purposes, **the Sacramento advocates will oppose AB 375.**

AB 375 is similar to County-opposed AB 1994 (Skinner) of 2010, which was held in the Assembly Appropriations Committee suspense file last year. There is no registered support or opposition of file for AB 375. However, AB 1994 was sponsored by the California Nurses Association/National Nurses Organizing Committee and supported by numerous employee unions. AB 1994 was opposed by the California State Association of Counties, Riverside County, California Hospital Association, California Chamber of Commerce, California Joint Powers Authority, California Grocers Association, California Society of Health-System Pharmacists, Association of California Healthcare Districts, Association of California Insurance Companies, American Insurance Fund, Kaiser Permanente, and numerous hospitals.

AB 375 is scheduled for a hearing in the Assembly Insurance Committee on April 13, 2011.

**AB 1155 (Alejo)**, which as introduced on February 18, 2011, would prohibit the consideration of race, religious creed, color, national origin, age, gender, marital status, sex, sexual orientation, or genetic characteristics as a cause or other factor of disability considered in the determination of workers' compensation benefits.

The Chief Executive Office Risk Management Branch indicates that AB 1155 would negatively affect the County for a number of reasons including: 1) it may significantly weaken workers' compensation reforms contained in SB 899 (Chapter 34, Statutes of 2004), which established that the apportionment permanent disability should be based on causation and an employer should only be liable for the disability directly caused by a work-related injury; 2) it could eliminate, under certain circumstances, current requirements that employees demonstrate on-the-job exposure to qualify for workers'

compensation benefits; and 3) it may increase County workers' compensation costs by several million dollars per year.

AB 1155 is substantially similar to County-opposed SB 145 (DeSaulnier) of 2010, which was passed by the Legislature, but vetoed by Governor Schwarzenegger in October 2010. In his veto message, the Governor indicted that the bill would create ambiguities in the law that would lead to costly litigation. Additionally, the Governor indicated that current workers' compensation laws do not allow discrimination based on any of the above factors.

The Chief Executive Office opposes AB 1155. Therefore, consistent with existing Board policy to oppose legislation that expands existing or creates new assumptions that can be claimed for workers' compensation, and policy to oppose legislation that mandates or authorizes compensation or benefit changes that increase County costs, **the Sacramento advocates will oppose AB 1155.**

There is no support or opposition currently on file. This measure is scheduled for a hearing in the Assembly Insurance Committee on April 13, 2011.

**SB 33 (Simitian)**, which as introduced on December 6, 2010, would repeal the January 1, 2013 sunset date and make permanent provisions established by SB 1018, (Chapter 140, Statutes of 2005), which expanded the scope of the Elder Abuse and Dependent Adult Civil Protection Act by: 1) including officers and employees of financial institutions as mandated reporters; and 2) providing immunity for mandated reporters, confidentiality of reports regarding elder and dependent adult abuse, and training materials for detecting and reporting suspected financial abuse of an elder or dependent adult.

The Elder Abuse and Dependent Adult Civil Protection Act established procedures for reporting, investigating and prosecuting elder and dependent adult abuse. These procedures require persons, defined as mandated reporters, to report known or suspected instances of elder or dependent adult abuse. The Act was amended in 2005 by County-supported SB 1018 to designate officers and employees of financial institutions as mandated reporters for the purpose of reporting financial abuse perpetrated against elder and dependent adults. Among other provisions, SB 1018 of 2005 included a sunset date of January 1, 2013.

The Department of Community and Senior Services (CSS) administers the Adult Protective Services (APS) Program, which investigates abuse, neglect and exploitation of elder and dependent adults, indicates that SB 33 is a comprehensive approach in strengthening current law regarding financial institutions as mandated reporters.

According to CSS, the inclusion of financial institutions as mandated reporters provides opportunities for partnerships and collaborations for the APS Program to be effective. SB 1018 has proven to be successful in bringing elder financial abuse to the attention of authorities and allows CSS to continue to protect vulnerable elders and dependent adults. Furthermore, if financial institutions, as mandated reporters, are to be active partners in detecting and reporting financial abuse, provisions under current law relating to immunity, confidentiality of reports and training should be made permanent. SB 33 would make the existing mandated reporting requirements permanent.

The Department of Community and Senior Services and this office support SB 33. Therefore, consistent with existing Board policy to support proposals that would increase the types of professions required to report suspected cases of elder abuse, **the Sacramento advocates will support SB 33.**

Although there is no registered support or opposition on file at this time, the County Welfare Directors Association and the California Bankers Association have indicated their intent to support SB 33. The legislation is scheduled for a hearing on April 6, 2011 in the Senate Banking and Financial Institutions Committee.

**SB 457 (Calderon)**, which as introduced on February 16, 2011, would require the Workers' Compensation Appeals Board (WCAB) to allow a lien on workers' compensation benefits for certain medical expenses in excess of the Official Medical Fee Schedule.

Existing workers' compensation law authorizes a medical provider to file a lien claim with the WCAB for certain expenses incurred for medical treatment of work-related injuries. The law also requires the administrative director of the WCAB to adopt and periodically revise the Official Medical Fee Schedule to establish reasonable maximum fees payable for medical services related to work-related injuries. SB 457 would specify that in the event a lien on a claim for medical reimbursement is awarded, the lien amount would not be tied to the Official Medical Fee Schedule.

The Chief Executive Office Risk Management Branch indicates that by eliminating the use of the Official Medical Fee Schedule, SB 457 would create a loophole for providers to file a lien for reimbursement of medical treatment of work-related injuries rather than directly billing for these services. The CEO Office of Risk Management indicates that the Official Medical Fee Schedule is an essential tool for controlling workers' compensation costs. SB 457 would slow the reimbursement process and create backlogs of liens at the WCAB significantly increasing the costs of workers' compensation medical claims throughout the State.

Each Supervisor  
March 30, 2011  
Page 5

The Chief Executive Office opposes SB 457. Therefore, consistent with existing Board policy to oppose legislation that mandates or authorizes compensation or benefit changes that increase County costs, **the Sacramento advocates will oppose SB 457.**

SB 457 is supported by the California Labor Federation, AFL-CIO and the California Professional Firefighters. The measure is opposed by the California Joint Powers Authority. SB 457 passed the Senate Labor and Industrial Relations Committee by a vote of 4 to 0 on March 23, 2011. This measure now proceeds to the Senate Appropriations Committee.

### **Status of County-Sponsored Legislation**

**County-sponsored AB 259 (Smyth)**, which as introduced on February 7, 2011, would expand the job qualifications for applicants to the position of county public defender to include sitting or retired judges, judicial commissioners, magistrates, referees, or elected public officials, is awaiting a hearing in the Assembly Judiciary Committee.

As introduced, AB 259 is opposed by California Public Defenders Association, Black Public Defenders' Association, Gay and Lesbian Public Defender Employee Association, Latino Public Defenders Association, Asian Pacific Public Defenders Association and Crime Victims Action Alliance. There is no registered support on file.

We will continue to keep you advised.

WTF:RA:MR  
VE:OR:RM:sb

c: All Department Heads  
Legislative Strategist  
Local 721  
Coalition of County Unions  
California Contract Cities Association  
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